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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF AGRICULTURE
LANSING

MITCH IRWIN
DIRECTOR

May 22, 2006

Docket Clerk
Fruit and Vegetable Programs
AMS – USDA
1400 Independence Avenue SW
Stop 0243
Washington, DC 20250-0243

Re: Docket No. FV06-1290-1 PR
Federal Register / Vol. 71, No. 76 pages 20353-20357

To Whom It May Concern:

I am submitting these written comments on behalf of the Michigan Department of Agriculture (MDA), regarding the proposed rules for the USDA Specialty Crop Block Grant Program in the Agricultural Marketing Service.

As noted in the proposed rule, the Specialty Crops Competitiveness Act (SCCA) of 2004 (7 U.S.C. 1621 note) authorized the Specialty Crop Block Grant Program. Congress approved the initial block grant for specialty crops in 2001, and we believe this program builds upon the success of that program. MDA, working cooperatively with the Michigan agricultural community, was able to direct funds to areas that provided the greatest overall benefit to Michigan citizens and producers. Programs included agricultural education, research, pest and disease prevention, marketing and promotion, and enhancement of the health and nutrition of our children and adults.

These proposed rules will become the foundation for the block grant program and must provide flexibility so Michigan and other states can effectively meet the most critical needs of its specialty crop industry and accountability to ensure funds are used according to the directions of Congress and as provided in each State plan as authorized in Sec. 101, subsection (e) of the SCCA.

According to the SCCA, "the Secretary of Agriculture shall make grants to States for each of the fiscal years 2005 through 2009 to be used by State departments of agriculture solely to enhance the competitiveness of specialty crops." While researching the definition of "block grant," two definitions were found to provide some direction. One definition is "in a federal system of government, a **block grant** is a large

sum of money granted by the national government to a regional government with only general provisions as to the way it is to be spent. Another definition for **block grant** is “an unrestricted federal grant, as to a locality.” Both definitions support the principle that this program must provide flexibility to a state department of agriculture to carry out the program based on the unique needs and priorities of that Department and the specialty crop industry in its state. This principle was also embraced by then USDA Secretary Ann M. Veneman, in a FY 2002 letter to the National Association of State Departments of Agriculture (NASDA) indicating that, “The specialty crop grants are a state-run program, and it will be incumbent upon each state to determine what complies with the statute.”

We have other concerns about several portions of the proposed rule. One concern relates to the stated purpose of the Specialty Crop Block Grant Program (SCBGP), as the proposed rule is not consistent in defining the program’s purpose. In references on page 20353, 20354, and 20356 (1290.4 and 1290.6) the proposed rule indicates that the program’s purpose is to “enhance the competitiveness of specialty crops.” In other references to the program’s purpose (or goals) on pages 20354 and 20355, the proposed rule states the purpose as “increasing fruit, vegetable and nut consumption and improving the competitiveness of specialty crops.” The SCBGP implementing legislation (Specialty Crop Competitiveness Act of 2004 – Title 1) clearly indicates that the purpose of the specialty crop block grants shall be “to enhance the competitiveness of specialty crops” (Section 101(a) and (e)). While increasing consumption of fruit, vegetables and nuts could be part of improving overall specialty crop competitiveness, we believe that the final rule should clarify the program’s purpose as “to enhance the competitiveness of specialty crops.” Next, we believe that marketing, promotion and advertising for specialty crops is an important strategy in increasing the consumption of fruit, vegetables and other specialty crops and should be approved if states include that as part of their state plan for improving overall specialty crops competitiveness.

I recommend that each state department of agriculture be notified by USDA on the amount of the block grant that the state can receive and then based on that amount, a state department of agriculture will prepare a state plan that meets USDA requirements and the intent of Congress. In knowing the total grant amount, a state will have a better opportunity to prepare a state plan for each year the program is funded. States as well as the specialty crop producers, processors and interested citizens could provide specific details on priorities and projects, such as those elements proposed in the rule. These include measurable outcomes, budget costs, potential impacts, goals, work plans, oversight practices and multi-state projects. How can we expect individuals to put the time into project proposals if the block grant amount is not identified beforehand?

The following are specific comments and questions on the proposed rule:

Section 1290.1, Purpose

Under this section, AMS states that other applicable federal statutes and regulations, including but not limited to, 7 CFR part 3016 will be used to make grants. This part of

the Code indicates that the State must use the applicable cost principles outlined in the Office of Management and Budget (OMB) Circular A-87. This circular restricts allowable projected costs related to advertising, public relations, selling and marketing. These regulations should ***not*** be construed to prohibit state departments of agriculture from marketing and promoting specialty crops. In the 2001 block grant program, more than 70% of the grants were used for marketing purposes. (See page 60 for Michigan's report of the National Association of State Departments of Agriculture (NASDA) 2004 Progress Report on State Agricultural Block Grants.)

Section 1290.2, Definitions

Another issue is in regards to a clarification of what is included in the definition as a "specialty crop." The proposed rule indicates on pages 20354 and 20356 that specialty crops "mean fruits, vegetables, tree nuts, dried fruits, and nursery crops (including floriculture)." The specialty crop list in the proposed rule is consistent with the definition of specialty crop in the Specialty Crop Competitiveness Act. In most cases, we can easily determine the crops that are included and excluded from this list. However, we are uncertain as to the treatment of sod (turf), Christmas trees, wine produced from wine grapes and other fruits, apple cider, nursery crops, dry beans and certified organic crops. We would support including sod and Christmas trees as nursery crops. Dry beans, wine produced from wine grapes and other fruits, apple cider, floriculture and certified organic crops should also be included as they are normally classified as a specialty crop, and they were included in the 2001 USDA specialty crop block grant program here in Michigan. We would encourage the inclusion of these crops in the SCBGP, and we request additional clarification in the final rule as to the inclusion of these crops.

Section 1290.4 Eligible Grant Project

We recommend the removal in Section 1290.4, subsection (a), of the sentence "Priority will be given to fresh specialty crop projects." The public law did not include a priority for fresh. It does include in its purpose that the federal policy changes are necessary to accomplish the goals of "increasing fruit, vegetable, and nut consumption and improving the competitiveness of United States specialty crop producers." As indicated earlier, the committee report states, "the block grant program is intended for all specialty crop producers, however their crops are marketed."

Section 1290.5, Restrictions and limitations on grant funds

We understand that Section 1290.5, subsection (c) is language directly from the public law. However, we in Michigan would like to know if this language prevents a state from creating a new state program that would support specialty crops. Thus, I recommend that Section 1290.5 Restrictions and limitations on grant funds should read as follows:

(c) Grant funds shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds. STATE (S) MAY CREATE A

NEW PROGRAM (S) WITH THE EXPENDITURE OF NEW STATE FUNDS, WHICH SHALL BE INTERPRETED, AS MEETING THE AFOREMENTIONED REQUIREMENT OF FEDERAL GRANT FUNDS SHALL SUPPLEMENT THE EXPENDITURE OF STATE FUNDS.

Section 1290.5, Completed application

The Michigan Department of Agriculture has several concerns regarding the 10 steps in completing a state plan. From our experiences in administering the 2001 specialty crop block grant program, a state plan would provide goals, priorities, objectives, actions and administrative procedures that are unique to each state and that would enhance the competitiveness of specialty crops in that state. As reported in NASDA's 2004 Progress Report on State Agricultural Block Grants, state departments of agriculture identified more than 30 priority programs. (See page 10 of NASDA report.) Marketing and promotion topped the list.

Overall, it is our opinion that the reporting requirements for this grant are onerous and more time-consuming than the modest estimate burden provided by AMS in the Paperwork Reduction Act section. Again, since this is a block grant program, not a competitive grant, why is this extensive amount of information required?

We would like to see a short application, perhaps a template for all states to use, describing their concept or plan for utilizing the funds. The rule implies that AMS wants, UP FRONT, all the information in a plan, with a 200 word description of each proposed project, including purpose, potential impact, financial feasibility, expected measurable outcomes, goals, work plan, project oversight, and project commitment from partners. This poses a serious problem for all states because:

1. States do not yet know how much money they will be getting, beyond the \$100,000;
2. States would have to seek partners and decide on projects in advance of applying; and
3. Oversight, record-keeping, and financial management will be compounded by the number of projects proposed and may have a stifling effect on a state's interest to award grants to a larger number of grant recipients.

We believe a state plan should reflect the priority areas that specialty crops producers have identified in a state and how funds could be used in a number of areas to enhance the competitiveness of specialty crops. These areas could include programs such as food safety and security, agricultural education, research, pest and disease prevention, marketing and promotion, and enhancement of the health and nutrition of our children and adults.

Additionally, how can a state submit a project that will include a competitive grant program at the state level under these proposed rules? In 2001 SCBG, 30 percent of

the grant funds to Michigan Dept. of Agriculture were delivered to sub-recipients through competitive grants administered at the state level.

The following is a possible suggestion regarding iv. Financial Feasibility: For each project, provide budget estimates for the total project cost. Indicate what percentage of the budget covers administrative costs. IT SHALL BE ALLOWABLE TO INCLUDE FEE-BASED OR DELIVERABLE-BASED PROJECTS AS PART OF AN APPLICATION FOR AN APPROVABLE STATE PLAN FOR GRANT FUNDS.

Section 1290.7, Review of grant applications

If an application for a specific project is not completed according to AMS, does this mean that amount of funds are forfeited by the state and then cannot be used for other specialty crop producers in that state? Deadlines for individual projects should be set by the state. When a state has selected individual projects based on its state plan, then the state would submit the individual projects to AMS for conformance to the state plan.

I also recommend the following revision for Section 1290.8 Grant agreements:

(a) After approval of a grant application, AMS will enter into a grant agreement with the State department of agriculture. IT SHALL BE ALLOWABLE TO INCLUDE FEE-BASED OR DELIVERABLE-BASED PROJECTS AS PART OF AN APPROVABLE GRANT AGREEMENT WITH THE STATE DEPARTMENT OF AGRICULTURE.

Section 1290.9, Reporting and oversight requirements

Section 1290.10, Audit requirements

MDA supports a simplified approach in providing reports and conducting audits. We suggest that the Single Audit Act should oversee the auditing requirements. As proposed in the rule, the auditing requirements would cost from \$5,000 - \$8,000; this is a substantial cost to the state departments of agriculture for the limited amount of funding involved. If this is included in the overhead charged to the grant, it raises the overhead costs and reduces the amount available for actual project work. The Single Audit Act presently covers all federal funds to states that received limited federal funds. We recommend compliance with the Single Audit Act to suffice for the audit requirement.

Comments were also invited on the definition of “enhancing the competitiveness” of specialty crops. According to the Census of Agriculture, there are more than 100 separate fruit and vegetable commodities or groups of commodities in the United States. This does not account for the variety of nursery, floral and nut crops also grown here. Many issues facing specialty crop producer must be addressed to enhance and to increase the competitiveness of U.S. specialty crops. If U.S. specialty crops producers cannot compete on the world market and meet the needs of U.S. consumers, the U.S. will lose another segment of our agriculture.

Producers are more competitive when they have tools and programs available to them and have the knowledge to seize upon opportunities or to make timely changes in business practices and government policies. Critical issues include: gaining market access, domestically and internationally; having affordable truck and rail transportation; escalating costs of fuel and labor; implications of having fewer buyers for specialty crop products; changing consumers preference in order to consume a wider variety of fruits and vegetables; as consumers, become more knowledgeable, the ability to effectively respond to their demands; environmental concerns and conservation; overcoming trade obstacles such as high tariffs; increasing competition from China and India in the production of specialty crops; overcoming devastation from invasive pests and diseases; processing capacity; and new food product development. In all these issues, research, marketing, education (of farmer and consumer alike) and analysis are all key elements to enhance competitiveness.

Since this is a new program being administered by AMS, we strongly encourage AMS to allow for flexibility in issuing rule and program changes in the future. By considering changes, this will ensure that state departments of agriculture can administer a state-level program effectively and efficiently based on state priorities of the specialty crop industry in each respective state.

Thank you for your attention to these comments and questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitch Irwin". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.

Mitch Irwin
Director